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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,335	04/05/2001	David E. Ewel	854.51US01	2979

7590                    07/19/2002

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, MN 55402-0903

EXAMINER

PEZZLO, BENJAMIN A

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/827,335	EWEL, DAVID E.
	Examiner Benjamin A Pezzlo	Art Unit 3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
  - 2a) This action is **FINAL**.      2b) This action is non-final.
  - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-19 is/are pending in the application.
    - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
  - 5) Claim(s) \_\_\_\_\_ is/are allowed.
  - 6) Claim(s) 1,4-10 and 13-19 is/are rejected.
  - 7) Claim(s) 2,3,11 and 12 is/are objected to.
  - 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>15</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-10, and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawamoto et al. (US 5613740).

Kawamoto et al. discloses a hydraulic brake system (see Fig. 2) for supplying a braking output (B<sub>subFL</sub>) to a vehicle having at least one wheel, the braking system including a primary valve assembly M configured to receive a manually controlled input 7 that varies the braking output, the primary valve assembly including a first spool valve (the spool valve is within the master cylinder, M) configured to vary the braking output according to the manually controlled input, and a secondary valve assembly 3FL integral with the primary valve assembly (via switch over valve 4FL), the secondary valve assembly being configured to receive input signals from a programmable electronic controller 30, the secondary valve assembly including a second spool valve 15 configured to operate with the primary valve assembly; and an actuator 16 for engaging and actuating the second spool valve according to the input signals received from the programmable electronic controller such that the second spool valve modulates the braking output produced by the primary valve assembly (see col. 5 lines 7-12).

Re claim 4, see electric actuator 16 and col. 3 line 33.

Re claims 5-9 and 13-19, see col. 4 lines 5-10.

***Allowable Subject Matter***

3. Claims 2-3, and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takata, Ogino et al., Inoue, Leppek, Shirai et al., Farr, Inada et al., Nomura et al., Oyama, Terazawa et al., Schonlau, Kellner et al., Oishi et al., Tsukamoto, Oka et al., Fuchida, Nishii, Kobayashi et al., and Belart et al. disclose related devices.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-3519 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

BAP  
June 13, 2002

*JL*  
JACK LAVINDER  
SUPPLYORATIVE PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
6/17/02